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EXAMINER

WAXMAN, ANDREW

ART UNIT PAPER NUMBER

2662

DATE MAILED: 05/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/056,074

Applicant(s)

CURTIS, PAVEL

Examiner

Andrew M Waxman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10, 12, 13, 17, 18, 21-33, 35-41, 43-45, 47, 48 and 50-59 is/are rejected.
- 7) ☒ Claim(s) 1, 7, 11, 14-16, 19, 20, 34, 42, 46 and 49 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

Claim 1 is objected to because of the following informalities: "a first host" recited twice; the second should be changed to --the first host-- or --said first host-- to avoid any confusion. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 8-10, 12-13 17, 18, 21-32, 36-41, 43-45, 47-48 and 50-59 are rejected under 35 U.S.C. 102(b) as being anticipated by Nguyen et al., patent number 6,006,267, herein after referred to as Nguyen.

Regarding claim 1, Nguyen discloses a method for automatically sensing a transmission method including transmitting at least one packet ('reachability request' see col. 6 lines 54-59) to a first host (host J) via a first transmission method (multicast), transmitting at least one packet ('reachability request' see col. 7 lines 4-9) to a first host (host J) via a second transmission

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method (unicast), and configuring for communication with the first host (J) in accordance with the second transmission method (unicast) if a response is received via the second transmission method. See col. 7 lines 8-12 and 26-45 and Fig. 7-8.

Regarding claim 2, Nguyen further discloses configuring for communication with the first host (J) in accordance with the first transmission method (see col. 7 lines 13-19) if no response to a packet transmitted via the second method is received (see col. 7 lines 10-12 and 26-45).

Regarding claim 3, Nguyen further discloses receiving a response from the first host to a packet transmitted via the first transmission method (multicast). See col. 6 lines 60-62.

Regarding claim 4, Nguyen further discloses configuring for communication with the first host (J) in accordance with the second transmission method (unicast) if a response is received via the second transmission method. See col. 7 lines 8-12 and 26-45 and Fig. 7-8.

Regarding claim 5, Nguyen further discloses receiving a response, from the first host (J), to a packet transmitted via the second transmission method. See col. 7 lines 8-11 and 26-45.

Regarding claim 6, Nguyen discloses implementation in a packet network (LAN Fig. 1). Any packet transmitted in a packet network comprises an address. It is therefore inherent to Nguyen that the response comprises an address.

Regarding claim 8, Nguyen further discloses receiving no response to a packet transmitted via the second transmission protocol. See col. 7 lines 10-12 and 25-37.

Regarding claim 9, Nguyen further discloses configuring for communication with the first host in accordance with the first (unreliable multicast) transmission method. See col. 7 lines 32-35.

Regarding claim 10, Nguyen discloses implementation in a packet network (LAN Fig. 1). Any packet transmitted in a packet network comprises an address. It is therefore inherent to Nguyen that the response comprises an address.

Regarding claim 12, Nguyen further discloses receiving a response to a packet transmitted via the second (unreliable unicast) transmission method. See col. 7 lines 35-40.

Regarding claim 13, Nguyen discloses implementation in a packet network (LAN Fig. 1). Any packet transmitted in a packet network comprises an address. It is therefore inherent to Nguyen that the response comprises an address.

Regarding claim 17, Nguyen further discloses not receiving a response to a packet transmitted via the first (unreliable multicast) transmission method. See col. 6 lines 62-65.

Regarding claim 18, Nguyen further discloses configuring for communication with the first host (host J) in accordance with the first (unreliable multicast) transmission method (col. 7 lines 32-35), provided a response to a packet transmitted via the first (unreliable multicast) transmission method is received (col. 6 lines 62-65).

Regarding claims 21 and 22, Nguyen further discloses the first transmission method as multicast and the second transmission method as multicast, however interchanging these is inherent to Nguyen, because the ordering of the test would not interfere with the determination of which transmission method is possible. See col. 7 lines 18-25.

Regarding claims 23 and 24, Nguyen further discloses transmitting a predetermined ('series' see col. 6 and 7 lines 57-58 and 5-7) number of packets (messages) to the first host (host J) via the first (multicast) and the second (unicast) transmission methods until successful responses are received.

Regarding claim 25, Nguyen discloses a method for automatically sensing a transmission method including transmitting, by a first host (host I), at least one packet ('reachability request' see col. 6 lines 54-59) to a second host (host J) via a first transmission method (multicast), transmitting, by a first host (host I) at least one packet ('reachability request' see col. 7 lines 4-9) to a second host (host J) via a second transmission method (unicast), and configuring the first host (host I) for communication with the second host (host J) in accordance with the second

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transmission method (unicast) if a response is received via the second transmission method. See col. 7 lines 8-12 and 26-45 and Fig. 7-8.

Regarding claim 26, Nguyen further discloses configuring the first host (host I) for communication with the second host (host J) in accordance with the first transmission method (see col. 7 lines 13-19) if no response to a packet transmitted via the second method is received (see col. 7 lines 10-12 and 26-45).

Regarding claim 27, Nguyen further discloses receiving no response to a packet transmitted via the first (multicast) transmission method. See col. 6 and 7 lines 62-65 and 29-31.

Regarding claim 28, Nguyen further discloses receiving no response to a packet transmitted via the second (unicast) transmission method. See col. 7 lines 10-12 and 36-39.

Regarding claim 29, Nguyen further discloses configuring the first host (host I) for communication with the second host (host J) in accordance with the first (unreliable multicast) transmission method. See col. 7 lines 32-35.

Regarding claim 30, Nguyen discloses implementation of the invention in a packet network (LAN Fig. 1). Configuring a host in a packet network using an available address is inherent in any packet network. Every host in a packet network must have a unique address in order for the network to function properly and ensure that there are no address conflicts. If an

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address is already assigned, i.e. unavailable, it would not be available for configuring any host.

This, therefore is inherent to Nguyen.

Regarding claims 31 and 32, Nguyen further discloses the first transmission method as multicast and the second transmission method as multicast, however interchanging these is inherent to Nguyen, because the ordering of the test would not interfere with the determination of which transmission method is possible. See col. 7 lines 18-25.

Regarding claim 36, Nguyen discloses a computer readable medium containing instructions for a method including transmitting at least one packet ('reachability request' see col. 6 lines 54-59) to a first host (host J) via a first transmission method (multicast), transmitting at least one packet ('reachability request' see col. 7 lines 4-9) to a first host (host J) via a second transmission method (unicast), and configuring for communication with the first host (J) in accordance with the second transmission method (unicast) if a response is received via the second transmission method. See col. 9 lines 27-57 and Fig. 7-8.

Regarding claim 37, Nguyen further discloses configuring for communication with the first host (J) in accordance with the first transmission method (see col. 7 lines 13-19) if no response to a packet transmitted via the second method is received (see col. 7 lines 10-12 and 26-45 and col. 9 lines 27-57).



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Regarding claim 38, Nguyen further discloses receiving a response from the first host to a packet transmitted via the first transmission method (multicast). See col. 6 lines 60-62 and col. 9 lines 27-57.

Regarding claim 39, Nguyen further discloses configuring for communication with the first host (J) in accordance with the second transmission method (unicast) if a response is received via the second transmission method. See col. 7 lines 8-12 and 26-45 and Fig. 7-8 and col. 9 lines 27-57.

Regarding claim 40, Nguyen further discloses receiving a response, from the first host (J), to a packet transmitted via the second transmission method. See col. 7 lines 8-11 and 26-45 and col. 9 lines 27-57.

Regarding claim 41, Nguyen discloses implementation in a packet network (LAN Fig. 1). Any packet transmitted in a packet network comprises an address. It is therefore inherent to Nguyen that the response comprises an address.

Regarding claim 43, Nguyen further discloses receiving no response to a packet transmitted via the second transmission protocol. See col. 7 lines 10-12 and 25-37 and col. 9 lines 27-57.

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Regarding claim 44, Nguyen further discloses configuring for communication with the first host in accordance with the first (unreliable multicast) transmission method. See col. 7 lines 32-35 and col. 9 lines 27-57.

Regarding claim 45, Nguyen discloses implementation in a packet network (LAN Fig. 1). Any packet transmitted in a packet network comprises an address in order to ensure properly delivery to the intended destination. It is therefore inherent to Nguyen that the response comprises an address.

Regarding claim 47, Nguyen further discloses receiving a response to a packet transmitted via the second (unreliable unicast) transmission method. See col. 7 lines 35-40 and col. 9 lines 27-57.

Regarding claim 48, Nguyen discloses implementation in a packet network (LAN Fig. 1). Any packet transmitted in a packet network comprises an address. It is therefore inherent to Nguyen that the response comprises an address.

Regarding claim 50, Nguyen further discloses not receiving a response to a packet transmitted via the first (unreliable multicast) transmission method. See col. 6 lines 62-65 and col. 9 lines 27-57.

Regarding claim 51, Nguyen further discloses configuring for communication with the first host (J) in accordance with the second transmission method (unicast). See col. 9 lines 50-57.

Regarding claim 52, Nguyen further discloses not receiving a response to a packet transmitted via the first (unreliable multicast) transmission method. See col. 6 lines 62-65 and col. 9 lines 27-57.

Regarding claim 53, Nguyen further discloses configuring for communication with the first host (host J) in accordance with the first (unreliable multicast) transmission method (col. 7 lines 32-35), provided a response to a packet transmitted via the first (unreliable multicast) transmission method is received (col. 6 lines 62-65). See also col. 9 lines 31-38 and 55-57.

Regarding claim 54, Nguyen further discloses receiving no response to a packet transmitted via the second transmission protocol. See col. 7 lines 10-12 and 25-37 and col. 9 lines 27-57.

Regarding claim 55, Nguyen further discloses configuring for communication with the first host (host J) in accordance with the first (unreliable multicast) transmission method. See col. 9 lines 35-39 and 55-57.

Regarding claims 56 and 57, Nguyen further discloses the first transmission method as multicast and the second transmission method as multicast, however interchanging these is inherent to Nguyen, because the ordering of the test would not interfere with the determination of which transmission method is possible. See col. 7 lines 18-25 and col. 9 lines 27-57.

Regarding claims 58 and 59, Nguyen further discloses transmitting a predetermined ('series' see col. 6 and 7 lines 57-58 and 5-7) number of packets (messages) to the first host (host J) via the first (multicast) and the second (unicast) transmission methods until successful responses are received. See also col. 9 lines 27-57.

3. Claims 33 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Farinacci et al., U.S. Patent No. 5,519,704, herein after referred to as Farinacci.

Regarding claim 33, Farinacci discloses a method including receiving by a first host (router B) at least one packet from the second host (router A) via a first (multicast) transmission method (see col. 8 lines 61-62 and Fig. 7). Transmitting by a first host (router b) at least one packet to the second host (router A) in accordance with a second (unicast) transmission method (see col. 8 lines 63-65 and Fig. 7), and a further communication with the first host (router B) by the second host (router A) in accordance with the second (unicast) transmission method (see col. 8 and 9 lines 66-67 and 1-3 and Fig. 7). Configuration for communication with the second host in accordance with the second transmission method is inherent to Farinacci because the further

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communication between the first and second host would not be possible unless the first host and second host were able to transmit and receive messages via the second transmission method.

Regarding claim 35 Farinacci discloses a method including receiving by a first host (router B) at least one packet via a first (multicast) transmission method (see col. 8 lines 61-62 and Fig. 7). Transmitting by a first host (router B) at least one packet in accordance with a second (unicast) transmission method (see col. 8 lines 63-65 and Fig. 7), and a further communication with the first host (router B) in accordance with the second (unicast) transmission method (see col. 8 and 9 lines 66-67 and 1-3 and Fig. 7). Configuration for communication with the second host in accordance with the second transmission method is inherent to Farinacci because the further communication between the first and second host would not be possible unless the first host and second host were able to transmit and receive messages via the second transmission method.

#### ***Allowable Subject Matter***

4. Claims 7, 11, 14-16, 19, 20, 34, 42, 46, and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miller discloses methods for transmitting data.

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Patent No. WO 00/79407 discloses self-implementing multicast level escalation.

Fijolek discloses a method and system for cable modem management of data over cable system.

Nurenberg discloses a method for a unicast endpoint client to access a multicast IP session.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M Waxman whose telephone number is (703) 305-8086. The examiner can normally be reached on 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (703) 305-4744. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Andrew M. Waxman  
May 1, 2003

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HASSAN KIZOUL  
SUPERVISORY PATENT EXAMINER  
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